

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

LAYLA VANESSA JENNINGS,

Plaintiff,

VS.

METROPOLITAN LLOYDS INSURANCE
COMPANY OF TEXAS,

Defendant

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CIVIL ACTION NO.
3:16-cv-2864

(JURY)

**NOTICE OF REMOVAL
AND DEMAND FOR JURY TRIAL**

TO THE HONORABLE UNITED STATES DISTRICT COURT:

COMES NOW Metropolitan Lloyds Insurance Company of Texas, and files this Notice of Removal pursuant to 28 U.S.C. §1446(a), as well as their formal Demand for Jury Trial, and in support thereof would show the Court as follows:

1. On September 8, 2016 Plaintiff Layla Vanessa Jennings filed Plaintiff's Original Petition, Request for Declaratory Judgment, and Request for Disclosures in the matter styled *Layla Vanessa Jennings v. Metropolitan Lloyds Insurance Company of Texas*, Cause No. DC-16-11405 in the 191st Judicial District Court of Dallas County, Texas in which Plaintiff made a claim for damages under an alleged automobile policy issued to Eli Carrasquillo by Metropolitan Lloyds Insurance Company of Texas as a result of an alleged accident which occurred on April 23, 2015.
2. Plaintiff served Metropolitan Lloyds Insurance Company of Texas with a copy of Plaintiff's Original Petition, Request for Declaratory Judgment, and Request for Disclosures on September 15, 2016.

3. Plaintiff filed Plaintiff's First Amended petition and Request for Declaratory Judgment on October 3, 2016.

4. Defendant files this Notice of Removal within 30 days of receiving Plaintiff's Original Petition, Request for Declaratory Judgment, and Request for Disclosures. *See* 28 U.S.C. §1446(b). This Notice of Removal is being filed within one year of the commencement of this action.

5. All pleadings, process, orders, and other filings in the state court action are attached to this Notice as required by 28 U.S.C. §1446(a) and are attached hereto as Exhibit "A." A copy of this Notice is also concurrently being filed with the state court and served upon the Plaintiff.

6. Venue is proper in this Court under 28 U.S.C. §1441(a) because this district and division embrace Dallas County, Texas, the place where the removed action has been pending.

I.

BASIS FOR REMOVAL

7. Removal is proper based on diversity of citizenship under 28 U.S.C. §§ 1332(a), 1441(a) and 1446.

8. Plaintiff is, and was at the time the lawsuit was filed, a resident of Dallas County, Texas. (Petition Paragraph 2).

9. Defendant Metropolitan Lloyds Insurance Company of Texas is a Rhode Island corporation with its principal place of business in Rhode Island and is a citizen of the State of Rhode Island for diversity purposes, and therefore, complete diversity exists.

A. The Amount in Controversy Exceeds the Jurisdictional Requirements for Subject Matter Jurisdiction

10. In determining the amount in controversy, the court may consider the "policy limits . . . penalties, statutory damages, and punitive damages." *St. Paul Reinsurance Co., Ltd. v.*

Greenberg, 134 F.3d 1250, 1253 (5th Cir. 1998); *See Ray v. State Farm Lloyds*, No. CIV. A. 3:98-CV-1288-G, 1999 WL 151667, at *2-3 (N.D. Tex. Mar. 10, 1999)(finding a sufficient amount in controversy in Plaintiff's case against their insurance company for breach of contract, fraud, negligence, gross negligence, bad faith, violations of the Texas Insurance Code, violations of the Texas Deceptive Trade Practices Act and mental anguish); *Fairmont Travel, Inc. v. George S. May Int'l Co.*, 75 F. Supp.2d 666, 668 (S.D. Tex. 1999) (considering DTPA claims and the potential for recovery of punitive damages for the amount in controversy determination); *Chittick v. Farmers Ins. Exch.*, 844 F. Supp. 1153, 1155 (S.D. Tex. 1994) (finding a sufficient amount in controversy after considering the nature of the claims, the types of damages sought and the presumed net worth of the defendant in a claim brought by insureds against their insurance company for actual and punitive damages arising from a claim they made for roof damages).

11. This is a civil action in which the amount in controversy exceeds \$75,000.00. Plaintiff alleges that Defendant is liable under an automobile insurance policy because Plaintiff made a claim under that policy and Defendant wrongfully adjusted and denied that claim. Specifically, Plaintiff alleges that Defendant breached the insurance policy in effect at the time of the loss. The policy has an underinsured motorist limit of \$100,000.00 per person, \$300,000.00 per accident for the subject claim. (See Exhibit "A" Plaintiff's Original Petition, Request for Declaratory Judgment, and Request for Disclosures, as well as Exhibit "B" Declaration of Dennis D. Conder).

II.

THE REMOVAL IS PROCEDURALLY CORRECT

12. Defendant was served with the Plaintiff's Original Petition, Request for Declaratory Judgment, and Request for Disclosures on September 15, 2016. Defendant filed this Notice within the 30 day time period required by 28 U.S.C. §1446(b).

13. Venue is proper in the District and Division under 28 U.S.C. §1446(a) because this District and Division include the county in which the state action has been pending and because a substantial part of the events giving rise to Plaintiff's claims allegedly occurred in this District and Division.

14. Pursuant to 28 U.S.C. §1446(a) all pleadings, process, orders, and all other filings in the state court action are attached to this Notice.

15. Pursuant to 28 U.S.C. §1446(d), promptly after Defendant files this Notice, written notice of the filing will be given to Plaintiff.

16. Pursuant to 28 U.S.C. §1446(d), a true and correct copy of this Notice of Removal will be filed with the Clerk of the Dallas County District Court, promptly after Defendant files this Notice.

17. Defendants hereby demand a trial by jury.

III.

CONCLUSION

Based on the foregoing, the exhibits submitted in support of this Removal and other documents filed contemporaneously with this Notice of Removal and fully incorporated herein by reference, Defendant Metropolitan Lloyds Insurance Company of Texas, hereby removes this case to this court for trial and determination.

Respectfully submitted,

STACY & CONDER, LLP

/s/ - Dennis D. Conder

By: Dennis D. Conder
State Bar No. 04656400

901 Main Street, Suite 6200
Dallas, Texas 75202
(214) 748-5000
(214) 748-1421 FAX
conder@stacyconder.com

ATTORNEYS FOR DEFENDANT
METROPOLITAN LLOYDS INSURANCE
COMPANY OF TEXAS

CERTIFICATE OF SERVICE

On October 12, 2016 I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ - Dennis D. Conder

Dennis D. Conder

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